

Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 746

[Docket No. 961015286-6286-01]

RIN 0694-AB43

Exports to Cuba; Support for the Cuban People

AGENCY: Bureau of Export Administration.

ACTION: Final rule.

SUMMARY: On October 6, 1995, President Clinton announced several changes to the administration of the Cuban embargo intended to promote democratic change in Cuba. Accordingly, this final rule amends the Export Administration Regulations by introducing a licensing review policy for the approval, on a case-by-case basis, of certain exports to human rights organizations, news bureaus, and individuals and non-governmental

organizations engaged in activities that promote democratic activity in Cuba.

EFFECTIVE DATE: (DATE OF PUBLICATION).

FOR FURTHER INFORMATION CONTACT: Bruce Cromack, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482-5537.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 1995 the President announced new measures designed to improve enforcement of the U.S. embargo against Cuba and to increase support for the Cuban people. The measures would permit U.S. persons to engage in new categories of transactions with eligible Cuban entities, providing increased support for the Cuban people by facilitating communications, and supporting human rights and democratic activities. This rule is consistent with the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency

Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, as extended by the President's notice of August 15, 1995 (60 FR 42767) and notice of August 14, 1996 (61 FR 42527).

#### Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under control numbers 0694-0021 and 0694-0088. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Submit comments

to Hillary Hess, Office of Exporter Services, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 746 of the Export Administration Regulations (15 CFR Parts 730-774) is amended as follows:

PART 746 - [AMENDED]

1. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

2. Section 746.2 is amended by adding paragraph (b)(4) to read as follows:

§746.2 Cuba.

\* \* \* \* \*

(b) \* \* \*

(4) Applications for licenses may be approved, on a case-by-case basis, for certain exports to Cuba intended to provide support for the Cuban people, as follows:

(i) Applications for licenses for exports of certain commodities and software may be approved to human rights organizations, or to individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba when such exports do not give rise to U.S. national security or counter-terrorism concerns. Examples of such commodities include fax machines, copiers, computers (e.g., 486-level/CTP of 24.8 MTOPS or less), business/office software, document scanning equipment, printers, typewriters, and other office or office communications equipment. Applicants may donate or sell the commodities or software to be exported. Reexport to other end-users or end-uses is not authorized.

(ii) Commodities and software may be approved for export to U.S. news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. In addition to the examples of commodities and software listed in paragraph (b)(4)(i) of this section, certain telecommunications equipment necessary for the operation of news organizations

(e.g., 33M bit/s data signaling rate or less) may be approved for export to U.S. news bureaus.

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DATED:

Sue E. Eckert  
Assistant Secretary  
for Export Administration